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CONSIDERATION AND ADOPTION OF FINAL RESOLUTION

Final resolution adopted by the Conference

The United Conference on Natural Rubber, 1994,

Having met in Geneva from 5 to 15 April 1994, 3 to 14 October 1994 and 6 to 17 February 1995,

Having established the text of the International Natural Rubber Agreement, 1995, in Arabic, Chinese, English, French, Russian and Spanish,

1. Decides that the Arabic, Chinese, English, French, Russian and Spanish texts so established be equally authentic;

2. Requests that such texts be forwarded to the Secretary-General of the United Nations;

3. Requests the Secretary-General of the United Nations to forward copies of the text of the Agreement to all Governments invited to the Conference;

4. Requests the Secretary-General of the United Nations to arrange for the Agreement to be open for signature at United Nations Headquarters during the period laid down in article 57 of the Agreement;

5. Draws the attention of Governments to the procedures laid down in articles 59 and 61 of the Agreement and urges Governments to sign the Agreement and to deposit instruments of ratification, acceptance, approval or accession before 1 January 1997 or, if they cannot complete their constitutional procedures before then, to notify in accordance with article 60 that they will apply the Agreement provisionally.

7th Plenary meeting
17 February 1995

GE.95-50528

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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

# INTERNATIONAL NATURAL RUBBER AGREEMENT, 1995

UNITED NATIONS

TD/RUBBER.3/11

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT
Geneva

# INTERNATIONAL NATURAL RUBBER AGREEMENT, 1995

UNITED NATIONS
New York and Geneva, 1995

# INTERNATIONAL NATURAL RUBBER AGREEMENT, 1995

## CONTENTS


| | | Page |
|---|---|---|
| PREAMBLE | | 4 |
| | CHAPTER I. OBJECTIVES | |
| *Article* | | |
| 1. | Objectives | 5 |
| | CHAPTER II. DEFINITIONS | |
| 2. | Definitions | 6 |
| | CHAPTER III. ORGANIZATION AND ADMINISTRATION | |
| 3. | Establishment, headquarters and structure of the International Natural Rubber Organization | 8 |
| 4. | Membership in the Organization | 8 |
| 5. | Membership by intergovernmental organizations | 8 |
| | CHAPTER IV. THE INTERNATIONAL NATURAL RUBBER COUNCIL | |
| 6. | Composition of the International Natural Rubber Council | 9 |
| 7. | Powers and functions of the Council | 9 |
| 8. | Delegation of powers | 10 |
| 9. | Cooperation with other organizations | 10 |
| 10. | Admission of observers | 10 |
| 11. | Chairman and Vice-Chairman | 10 |
| 12. | Executive Director, Deputy Executive Director, Buffer Stock Manager and other staff | 11 |
| 13. | Sessions | 11 |
| 14. | Distribution of votes | 12 |
| 15. | Voting procedure | 13 |
| 16. | Quorum | 13 |
| 17. | Decisions | 13 |
| 18. | Establishment of committees | 14 |
| 19. | Panel of experts | 14 |
| | CHAPTER V. PRIVILEGES AND IMMUNITIES | |
| 20. | Privileges and immunities | 15 |
| | CHAPTER VI. ACCOUNTS AND AUDIT | |
| 21. | Financial accounts | 16 |
| 22. | Form of payment | 16 |
| 23. | Audit | 16 |

Page

CHAPTER VII. THE ADMINISTRATIVE ACCOUNT

24. Approval of the administrative budget and assessment of contributions . . . . . 17
25. Payment of contributions to the administrative budget . . 17

CHAPTER VIII. THE BUFFER STOCK

26. Size of the Buffer Stock . . . . . 18
27. Financing of the Buffer Stock . . . . . 18
28. Payment of contributions to the Buffer Stock Account . . . 19
29. Price range . . . . . 20
30. Operation of the Buffer Stock . . . . . 20
31. Review and revision of the price range . . . . . 22
32. Market indicator price . . . . . 23
33. Composition of buffer stocks . . . . . 24
34. Location of buffer stocks . . . . . 24
35. Maintaining the quality of the buffer stocks . . . . . 25
36. Restriction or suspension of buffer stock operations . . . 25
37. Penalties relating to contributions to the Buffer Stock Account . . . . . 26
38. Adjustment of contributions to the Buffer Stock Account . 26
39. The Buffer Stock and changes in exchange rates . . . . . 27
40. Liquidation procedures for the Buffer Stock Account . . . 28

CHAPTER IX. RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES

41. Relationship with the Common Fund for Commodities . . . . 30

CHAPTER X. SUPPLY AND MARKET ACCESS AND OTHER MEASURES

42. Supply and market access . . . . . 31
43. Other measures . . . . . 31

CHAPTER XI. CONSULTATION ON DOMESTIC POLICIES

44. Consultation . . . . . 32

CHAPTER XII. STATISTICS, STUDIES AND INFORMATION

45. Statistics and information . . . . . 33
46. Annual assessment, estimates and studies . . . . . 33
47. Annual review . . . . . 33

CHAPTER XIII. MISCELLANEOUS

48. General obligations and liabilities of members . . . . . 34
49. Obstacles to trade . . . . . 34
50. Transportation and market structure of natural rubber . . 34
51. Differential and remedial measures . . . . . 35
52. Relief from obligations . . . . . 35
53. Fair labour standards . . . . . 35
54. Environmental aspects . . . . . 35

Page

CHAPTER XIV. COMPLAINTS AND DISPUTES

55. Complaints . . . . . 36
56. Disputes . . . . . 36

CHAPTER XV. FINAL PROVISIONS

57. Signature . . . . . 38
58. Depositary . . . . . 38
59. Ratification, acceptance and approval . . . . . 38
60. Notification of provisional application . . . . . 38
61. Entry into force . . . . . 39
62. Accession . . . . . 40
63. Amendments . . . . . 40
64. Withdrawal . . . . . 41
65. Exclusion . . . . . 41
66. Settlement of accounts with withdrawing or excluded members or members unable to accept an amendment . . . . . 41
67. Duration, extension and termination . . . . . 42
68. Reservations . . . . . 43

ANNEXES

A. Shares of individual exporting countries in total net exports of countries, as established for the purposes of article 61 44
B. Shares of individual importing countries and groups of countries in total net imports of countries, as established for the purposes of article 61 . . . . . 45
C. Cost of the Buffer Stock as estimated by the President of the United Nations Conference on Natural Rubber, 1994 . . 46

## PREAMBLE

*The Contracting Parties,*

*Recalling* the Declaration and the Programme of Action on the Establishment of a New International Economic Order, *

*Recognizing* in particular the importance of the United Nations Conference on Trade and Development resolutions 93 (IV), 124 (V) and resolution 155 (VI) on the Integrated Programme for Commodities; the Cartagena Commitment and the relevant objectives contained in "The Spirit of Cartagena" adopted by the United Nations Conference on Trade and Development,

*Recognizing* the importance of natural rubber to the economies of members, particularly to the exports of exporting members and to supply requirements of importing members,

*Recognizing further* that the stabilization of natural rubber prices is in the interests of producers, consumers and natural rubber markets, and that an international natural rubber agreement can significantly assist the growth and development of the natural rubber industry to the benefit of both producers and consumers,

*Have agreed* as follows:

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* General Assembly resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974.

## CHAPTER I. OBJECTIVES

### Article 1

### Objectives

The objectives of the International Natural Rubber Agreement, 1995 (hereinafter referred to as this Agreement), in the light of the resolution 93 (IV), of the New Partnership for Development: the Cartagena Commitment and the relevant objectives contained in "The Spirit of Cartagena" adopted by the United Nations Conference on Trade and Development, are *inter alia* as follows:

(a) To achieve a balanced growth between the supply of and demand for natural rubber, thereby helping to alleviate the serious difficulties arising from surpluses or shortages of natural rubber;

(b) To achieve stable conditions in natural rubber trade through avoiding excessive natural rubber price fluctuations, which adversely affect the long-term interests of both producers and consumers, and stabilizing these prices without distorting long-term market trends, in the interests of producers and consumers;

(c) To help stabilize the export earnings from natural rubber of exporting members, and to increase their earnings based on expanding natural rubber export volumes at fair and remunerative prices, thereby helping to provide the necessary incentives for a dynamic and rising rate of production and the resources for accelerated economic growth and social development;

(d) To seek to ensure adequate supplies of natural rubber to meet the requirements of importing members at fair and reasonable prices and to improve the reliability and continuity of these supplies;

(e) To take feasible steps in the event of a surplus or shortage of natural rubber to mitigate the economic difficulties that members might encounter;

(f) To seek to expand international trade in and to improve market access for natural rubber and processed products thereof;

(g) To improve the competitiveness of natural rubber by encouraging research and development on the problems of natural rubber;

(h) To encourage the efficient development of the natural rubber economy by seeking to facilitate and promote improvements in the processing, marketing and distribution of raw natural rubber; and

(i) To further international cooperation in and consultations on natural rubber matters affecting supply and demand, and to facilitate promotion and coordination of natural rubber research, assistance and other programmes.

## CHAPTER II. DEFINITIONS

### Article 2

### Definitions

For the purposes of this Agreement:

1. "Natural rubber" means the unvulcanized elastomer, whether in solid or liquid forms, from *Hevea brasiliensis* and any other plant which the Council may decide for the purposes of this Agreement;

2. "Contracting party" means a Government, or an intergovernmental organization referred to in article 5, which has consented to be bound by this Agreement provisionally or definitively;

3. "Member" means a contracting party as defined in definition (2) above;

4. "Exporting member" means a member which exports natural rubber and has declared itself to be an exporting member, subject to the agreement of the Council;

5. "Importing member" means a member which imports natural rubber and has declared itself to be an importing member, subject to the agreement of the Council;

6. "Organization" means the International Natural Rubber Organization referred to in article 3;

7. "Council" means the International Natural Rubber Council, referred to in article 6;

8. "Special vote" means a vote requiring at least two thirds of the votes cast by exporting members present and voting and at least two thirds of the votes cast by importing members present and voting, counted separately, on condition that these votes are cast by at least half the members in each category present and voting;

9. "Exports of natural rubber" means any natural rubber which leaves the customs territory of any member, and "imports of natural rubber" means any natural rubber which enters the domestic commerce in the customs territory of any member, provided that for the purposes of these definitions, customs territory shall, in the case of a member which comprises more than one customs territory, be deemed to refer to the combined customs territories of that member;

10. "Distributed simple majority vote" means a vote requiring more than half of the total votes of exporting members present and voting and more than half of the total votes of importing members present and voting, counted separately;

11. "Freely usable currencies" means the deutsche mark, the French franc, the Japanese yen, the pound sterling, and the United States dollar;

12. "Financial year" means the period from 1 January to 31 December inclusive;

13. "Entry into force" means the date on which this Agreement enters into force provisionally or definitively in accordance with article 61;

14. "Tonne" means a metric ton, i.e. 1,000 kilogrammes;

15. "Malaysian/Singapore cent" means the average of the Malaysian sen and the Singapore cent at the prevailing rates of exchange;

16. "Time-weighted net contribution of a member" means its net cash contributions weighted by the number of days during which the constituent parts of the net cash contribution have stayed at the disposition of the Buffer Stock. In calculating the number of days, the day when the contribution was received by the Organization will not be taken into account, nor the day when the reimbursement was effected, nor the day when this Agreement terminates;

17. "First quoted month" means the calendar month of shipment officially quoted to the Organization by a market for inclusion in the daily market indicator price;

18. "Established commercial market" means a natural rubber trading centre where a rubber trade association or regulatory body exists meeting the following criteria:

    (a) a written constitution which includes sanctions that could be taken against erring members;

    (b) qualification standards, including financial standards, that members must maintain;

    (c) official written contracts that are legally binding;

    (d) full and binding arbitration to all market participants;

    (e) publishes official daily prices for physical rubber.

## CHAPTER III. ORGANIZATION AND ADMINISTRATION

### Article 3

### Establishment, headquarters and structure of the International Natural Rubber Organization

1. The International Natural Rubber Organization, established by the International Natural Rubber Agreement, 1979, shall continue in being for the purpose of administering the provisions and supervising the operation of this Agreement.

2. The Organization shall function through the International Natural Rubber Council, its Executive Director and its staff, and such other bodies as are provided for in this Agreement.

3. Subject to the requirement in paragraph 4 of this article, the headquarters of the Organization shall be in Kuala Lumpur, unless the Council, by special vote, decides otherwise.

4. The headquarters of the Organization shall at all times be located in the territory of a member.

### Article 4

### Membership in the Organization

1. There shall be two categories of membership, namely,

   (a) Exporting; and
   (b) Importing.

2. The Council shall establish criteria regarding a change by a member in its category of membership as defined in paragraph 1 of this article, taking fully into account the provisions of articles 24 and 27. A member which meets such criteria may change its category of membership subject to the agreement of the Council by special vote.

3. Each contracting party shall constitute a single member of the Organization.

### Article 5

### Membership by intergovernmental organizations

1. Any reference in this Agreement to a "Government" or "Governments" shall be construed as including a reference to the European Community and to any intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements. Accordingly, any reference in this Agreement to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession shall, in the case of such intergovernmental organizations, be construed as including a reference to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession, by such intergovernmental organizations.

2. In the case of votes on matters within their competence, such intergovernmental organizations shall exercise their voting rights with a number of votes equal to the total number of votes attributed, in accordance with article 14, to their member States. In such cases, the member States of such intergovernmental organizations shall not exercise their individual voting rights.

## CHAPTER IV. THE INTERNATIONAL NATURAL RUBBER COUNCIL

### Article 6

### Composition of the International Natural Rubber Council

1. The highest authority of the Organization shall be the International Natural Rubber Council, which shall consist of all the members of the Organization.

2. Each member shall be represented in the Council by one delegate, and may designate alternates and advisers to attend sessions of the Council.

3. An alternate delegate shall be empowered to act and vote on behalf of the delegate during the latter's absence or in special circumstances.

### Article 7

### Powers and functions of the Council

1. The Council shall exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the provisions of this Agreement, but it shall not have the power, and shall not be taken to have been authorized by the members, to incur any obligation outside the scope of this Agreement. In particular, it shall not have the capacity to borrow money, without, however, limiting the application of article 41, nor shall it enter into any trading contract for natural rubber, except as provided for specifically in paragraph 5 of article 30. In exercising its capacity to contract, the Council shall ensure that the terms of paragraph 4 of article 48 are brought by written notice to the attention of the other parties entering into such contracts, but any failure to do so shall not in itself invalidate such contracts, nor shall it be deemed to be a waiver of such limitation of liability of the members.

2. The Council shall, by special vote, adopt such rules and regulations as are necessary to carry out the provisions of this Agreement and are consistent therewith. These shall include its own rules of procedure and those of the committees referred to in article 18, rules for the administration and operation of the Buffer Stock, and the financial and staff regulations of the Organization. The Council may, in its rules of procedure, provide for a procedure whereby it may, without meeting, decide specific questions.

3. For the purposes of paragraph 2 of this article, the Council shall, at its first session after the entry into force of this Agreement, review the rules and regulations established under the International Natural Rubber Agreement, 1987, and adopt them with such modifications as it deems appropriate. Pending such adoption, the rules and regulations established under the International Natural Rubber Agreement, 1987, shall apply.

4. The Council shall keep such records as are required for the performance of its functions under this Agreement.

5. The Council shall publish an annual report on the activities of the Organization and such other information as it considers appropriate.

## Article 8

### Delegation of powers

1. The Council may, by special vote, delegate to any committee established under article 18 the exercise of any or all of its powers which, in accordance with the provisions of this Agreement, do not require a special vote of the Council. Notwithstanding this delegation, the Council may at any time discuss and decide any issue that may have been delegated to any of its committees.

2. The Council may, by special vote, revoke any power delegated to a committee.

## Article 9

### Cooperation with other organizations

1. The Council may make whatever arrangements are appropriate for consultation or cooperation with the United Nations, its organs and specialized agencies, and other intergovernmental organizations as appropriate.

2. The Council may also make arrangements for maintaining contact with appropriate international non-governmental organizations.

## Article 10

### Admission of observers

The Council may invite any non-member Government, or any of the organizations referred to in article 9, to attend as an observer any of the meetings of the Council or of any committee established under article 18.

## Article 11

### Chairman and Vice-Chairman

1. The Council shall elect for each year a Chairman and a Vice-Chairman.

2. The Chairman and the Vice-Chairman shall be elected, one from among the representatives of exporting members and the other from among the representatives of importing members. These offices shall alternate each year between the two categories of members, provided, however, that this shall not prohibit the re-election of either or both, under exceptional circumstances, by special vote of the Council.

3. In the temporary absence of the Chairman, he shall be replaced by the Vice-Chairman. In the temporary absence of both the Chairman and the Vice-Chairman or the permanent absence of one or both of them, the Council may elect new officers from among the representatives of the exporting members and/or from among the representatives of the importing members, as appropriate, on a temporary or permanent basis as may be required.

4. Neither the Chairman nor any other officer presiding at a meeting of the Council shall vote at that meeting. The voting rights of the member he represents may, however, be exercised in accordance with the provisions of paragraph 3 of article 6, or paragraphs 2 and 3 of article 15.

## Article 12

### Executive Director, Deputy Executive Director, Buffer Stock Manager and other staff

1. The Council shall, by special vote, appoint an Executive Director, Deputy Executive Director and a Buffer Stock Manager.

2. The terms and conditions of appointment of the Executive Director, Deputy Executive Director and the Buffer Stock Manager shall be determined by the Council.

3. The Executive Director shall be the chief administrative officer of the Organization and shall be responsible to the Council for the administration and operation of this Agreement in accordance with the provisions of this Agreement and decisions of the Council.

4. The Deputy Executive Director shall at all times be responsible to the Executive Director. The Deputy Executive Director shall act as the Executive Director when the latter is for any reason unable to perform his duties or when the office of the Executive Director is temporarily vacant, in which event, he shall be directly responsible to the Council for the administration and operation of the Agreement. The Deputy Executive Director shall be involved in all matters pertaining to the Agreement.

5. The Buffer Stock Manager shall be responsible to the Executive Director and the Council for the functions conferred upon him by this Agreement, as well as for such additional functions as the Council may determine. The Buffer Stock Manager shall be responsible for the day-to-day operation of the Buffer Stock, and shall keep the Executive Director informed of the general operations of the Buffer Stock so that the Executive Director may ensure its effectiveness in meeting the objectives of this Agreement.

6. The Executive Director shall appoint the staff in accordance with regulations established by the Council. The staff shall be responsible to the Executive Director.

7. Neither the Executive Director nor any member of the staff, including the Deputy Executive Director and the Buffer Stock Manager, shall have any financial interest in the rubber industry or trade, or associated commercial activities.

8. In the performance of their duties, the Executive Director, the Deputy Executive Director, the Buffer Stock Manager and other staff shall not seek or receive instructions from any member of from any other authority external to the Council or to any committee established under article 18. They shall refrain from any action which might reflect on their positions as international officials responsible only to the Council. Each member shall respect the exclusively international character of the responsibilities of the Executive Director, the Deputy Executive Direction, the Buffer Stock Manager and other staff and shall not seek to influence them in the discharge of their responsibilities.

## Article 13

### Sessions

1. As a general rule, the Council shall hold one regular session in each half of the year.

2. In addition to sessions in circumstances specifically provided for in this Agreement, the Council shall also meet in special session whenever it so decides or at the request of:

(a) The Chairman of the Council;

(b) The Executive Director;
(c) A majority of the exporting members;
(d) A majority of the importing members;
(e) An exporting member or exporting members holding at least 200 votes; or
(f) An importing member or importing members holding at least 200 votes.

3. Sessions shall be held at the headquarters of the Organization, unless the Council, by special vote, decides otherwise. If on the invitation of any member the Council meets elsewhere than at the headquarters of the Organization, that member shall pay the additional costs incurred by the Council.

4. Notice of any sessions and the agenda for such sessions shall be communicated to members by the Executive Director, in consultation with the Chairman of the Council, at least 30 days in advance, except in cases of emergency when notice shall be communicated at least 10 days in advance.

## Article 14

## Distribution of votes

1. The exporting members shall together hold 1,000 votes and the importing members shall together hold 1,000 votes.

2. Each exporting member shall receive one initial vote out of the 1,000 votes except that in the case of an exporting member with net exports of less than 10,000 tonnes annually the initial vote shall not apply. The remainder of such votes shall be distributed among the exporting members as nearly as possible in proportion to the volume of their respective net exports of natural rubber for the period of five calendar years commencing six calendar years prior to the distribution of votes.

3. The votes of importing members shall be distributed among them as nearly as possible in proportion to the average of their respective net imports of natural rubber during the period of three calendar years commencing four calendar years prior to the distribution of votes, except that each importing member shall receive one vote even if its proportional net import share is otherwise not sufficiently large to so justify.

4. For the purposes of paragraphs 2 and 3 of this article, paragraphs 2 and 3 of article 27 relating to contributions of importing members, and article 38, the Council shall, at its first session, establish a table of net exports of exporting members and a table of net imports of importing members which shall be revised annually in accordance with this article.

5. There shall be no fractional votes.

6. The Council shall, at the first session after the entry into force of this Agreement, distribute the votes for that year, to remain in effect until the first regular session of the following year, except as provided for in paragraph 7 of this article. Subsequently for each year, the Council shall distribute the votes at the beginning of the first regular session of that year. Such distribution shall remain in effect until the first regular session of the following year, except as provided for in paragraph 7 of this article.

7. Whenever the membership of the Organization changes or when any member has its voting rights suspended or restored under any provision of this Agreement, the Council shall redistribute the votes within the affected category or categories of members in accordance with the provisions of this article.

8. In the event of the exclusion of a member pursuant to article 65, or the withdrawal of a member pursuant to article 64 or article 63, resulting in the reduction of the total trade share of those members remaining in either category below 80 per cent, the Council shall meet and decide on the terms, conditions and future of this Agreement, including in particular the need to maintain effective buffer stock operations without causing undue financial burden to the remaining members.

## Article 15

## Voting procedure

1. Each member shall be entitled to cast the number of votes it holds in the Council and shall not be entitled to divide its votes.

2. By written notification to the Chairman of the Council, any exporting member may authorize any other exporting member, and any importing member may authorize any other importing member, to represent its interests and to exercise its voting rights at any session or meeting of the Council.

3. A member authorized by another member to cast the latter member's votes shall cast such votes as authorized.

4. When abstaining, a member shall be deemed not to have cast its votes. A member when present and not voting shall be deemed to have abstained.

## Article 16

## Quorum

1. The quorum for any meeting of the Council shall be the presence of a majority of exporting members and a majority of importing members, provided that such members hold at least two thirds of the total votes in their respective categories.

2. If there is no quorum in accordance with paragraph 1 of this article on the day fixed for the meeting and on the following day, the quorum on the third day and thereafter shall be the presence of a majority of exporting members and a majority of importing members, provided that such members hold a majority of the total votes in their respective categories.

3. Representation in accordance with paragraph 2 of article 15 shall be considered as presence.

## Article 17

## Decisions

1. All decisions of the Council shall be taken and all recommendations shall be made by distributed simple majority vote, unless otherwise provided for in this Agreement.

2. Where a member avails itself of the provisions of article 15 and its votes are cast at a meeting of the Council, such member shall, for the purposes of paragraph 1 of this article, be considered as present and voting.

## Article 18

### Establishment of committees

1. The following committees established by the International Natural Rubber Agreement, 1979, shall continue in being:

(a) Committee on Administration;
(b) Committee on Buffer Stock Operations;
(c) Committee on Statistics; and
(d) Committee on Other Measures.

Additional committees may also be established by special vote of the Council.

2. Each committee shall be responsible to the Council. The Council shall, by special vote, determine the membership and terms of reference of each committee.

## Article 19

### Panel of experts

1. The Council may establish a panel of experts from the rubber industry and trade of exporting and importing members.

2. Any such panel would be available to provide advice and assistance to the Council and its committees, particularly on buffer stock operations and on the other measures referred to in article 43.

3. The membership, functions and administrative arrangements of any such panel would be determined by the Council.

## CHAPTER V. PRIVILEGES AND IMMUNITIES

### Article 20

### Privileges and immunities

1. The Organization shall have legal personality. In particular, but without prejudice to the provisions of paragraph 4 of article 48, the Organization shall have the capacity to contract, to acquire and dispose of movable and immovable property, and to institute legal proceedings.

2. The status, privileges and immunities of the Organization, of its Executive Director, Deputy Executive Director, Buffer Stock Manager as well as other staff and experts, and of members' delegations shall continue to be governed by the Headquarters Agreement between the host Government and the Organization signed on 10 June 1987, with such amendments as might be necessary for the proper functioning of this Agreement.

3. If the headquarters of the Organization is moved to another country, the Government of that country shall, as soon as possible, conclude with the Organization a Headquarters Agreement to be approved by the Council.

4. Pending the conclusion of the Headquarters Agreement pursuant to paragraph 3 of this article, the Organization shall request the host Government to grant, to the extent consistent with its laws, exemption from taxation on remuneration paid by the Organization to its employees, and on the assets, income and other property of the Organization.

5. The Organization may also conclude, with one or more Governments, agreements to be approved by the Council relating to such privileges and immunities as may be necessary for the proper functioning of this Agreement.

6. The Headquarters Agreement shall be independent of this Agreement. It shall, however, terminate:

(a) By agreement between the host Government and the Organization;

(b) In the event that the headquarters of the Organization is moved from the country of the host Government; or

(c) In the event that the Organization ceases to exist.

## CHAPTER VI. ACCOUNTS AND AUDIT

### Article 21

### Financial accounts

1. For the operation and administration of this Agreement, there shall be established two accounts :

(a) The Buffer Stock Account; and
(b) The Administrative Account.

2. All the following receipts and expenditures in the creation, operation and maintenance of the Buffer Stock shall be brought into the Buffer Stock Account: contributions from members under article 27, revenue from sales of or expenditure in respect of acquisition of buffer stocks; interest on deposits of the Buffer Stock Account; and costs relating to purchase and sales commissions, storage, transportation and handling, maintenance and rotation, and insurance. The Council may, however, by special vote, bring any other type of receipts or expenditures attributable to buffer stock transactions or operations into the Buffer Stock Account.

3. All other receipts and expenditures relating to the operation of this Agreement shall be brought into the Administrative Account. Such expenditures shall normally be met by contributions from members assessed in accordance with article 24.

4. The Organization shall not be liable for the expenses of delegations or observers to the Council or to any committee established under article 18.

### Article 22

### Form of payment

Payments to the Administrative and Buffer Stock Accounts shall be made in freely usable currencies or currencies which are convertible in the major foreign exchange markets into freely usable currencies, and shall be exempt from foreign exchange restrictions.

### Article 23

### Audit

1. Each financial year, the Council shall appoint auditors for the purpose of auditing its books of account.

2. An independently audited statement of the Administrative Account shall be made available to members as soon as possible, but not later than four months, after the close of each financial year. An independently audited statement of the Buffer Stock Account shall be made available to members not earlier than 60 days, but not later than four months, after the close of each financial year. The audited statements of the Administrative and Buffer Stock Accounts shall be considered for approval by the Council at its next regular session, as appropriate. A summary of the audited accounts and balance sheet shall thereafter be published.

## CHAPTER VII. THE ADMINISTRATIVE ACCOUNT

### Article 24

### Approval of the administrative budget and assessment of contributions

1. At its first session after the entry into force of this Agreement, the Council shall approve the administrative budget for the period between the date of the entry into force and the end of the first financial year. Thereafter, during the second half of each financial year, the Council shall approve the administrative budget for the following financial year. The Council shall assess the contribution of each member to that budget in accordance with paragraph 2 of this article.

2. The contribution of each member to the administrative budget for each financial year shall be in the proportion which the number of its votes at the time the administrative budget for that financial year is approved bears to the total votes of all the members. In assessing contributions, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

3. The initial contribution to the administrative budget of any Government which becomes a member after the entry into force of this Agreement shall be assessed by the Council on the basis of the number of votes to be held by that member and of the period from the date on which it becomes a member to the end of the current financial year. The assessment made upon other members for that financial year shall not, however, be altered.

### Article 25

### Payment of contributions to the administrative budget

1. Contributions to the first administrative budget shall become due on a date to be decided by the Council at its first session. Contributions to subsequent administrative budgets shall become due by 28 February in each financial year. The initial contribution of a Government which becomes a member after the entry into force of this Agreement, assessed in accordance with paragraph 3 of article 24, shall, for the financial year concerned, become due 60 days after the date on which it becomes a member.

2. If a member has not paid its full contribution to the administrative budget within two months after such contribution becomes due in accordance with paragraph 1 of this article, the Executive Director shall request that member to make payment as quickly as possible. If a member has not paid its contribution within two months after such request by the Executive Director, its voting rights in the Organization shall be suspended unless the Council decides otherwise. If a member has still not paid its contribution within four months after such request by the Executive Director, all rights of that member under this Agreement shall be suspended by the Council, unless the Council, by special vote, decides otherwise.

3. For contributions received late, the Council shall levy a penalty charge at the prime interest rate in the host country from the date the contributions become due. The Council may waive such penalty charge up to 31 March of the same financial year on request from a member if, because of its internal laws and regulations, it is not able to pay the contributions to the administrative budget by the due date, in accordance with paragraph 1 of this article.

4. A member whose rights have been suspended under paragraph 2 of this article shall in particular remain liable to pay its contribution and to meet any other of its financial obligations under this Agreement.

## CHAPTER VIII. THE BUFFER STOCK

### Article 26

### Size of the Buffer Stock

In order to achieve the objectives of this Agreement, an international Buffer Stock shall be established. The total capacity of the Buffer Stock shall be 550,000 tonnes, including the total stocks still held under the International Natural Rubber Agreement, 1987. It shall be the sole instrument of market intervention for price stabilization in this Agreement. The Buffer Stock shall comprise:

(a) The normal Buffer Stock of 400,000 tonnes; and

(b) The contingency Buffer Stock of 150,000 tonnes.

### Article 27

### Financing of the Buffer Stock

1. Members commit themselves to finance the total cost of the international Buffer Stock of 550,000 tonnes established under article 26, it being understood that shares in the Buffer Stock Account of the International Natural Rubber Agreement, 1987, of those members of the International Natural Rubber Agreement, 1987, which became members of this Agreement shall, with the consent of each member, be carried over to the Buffer Stock Account under this Agreement in accordance with the procedures determined under the provisions of paragraph 3 of article 40 of the International Natural Rubber Agreement, 1987.

2. The financing of both the normal Buffer Stock and the contingency Buffer Stock shall be shared equally between the exporting and importing categories of members. Contributions of members to the Buffer Stock Account shall be apportioned according to their shares of the votes in the Council, except as provided for in paragraphs 3 and 4 of this article.

3. Any importing member whose share of total net imports as set out in the table to be established by the Council under paragraph 4 of article 14 represents 0.1 per cent or less of total net imports shall contribute to the Buffer Stock Account as follows:

(a) If its share of total net imports is less than or equal to 0.1 per cent but more than 0.05 per cent, such member shall contribute an amount assessed on the basis of its actual share of total net imports;

(b) If its share of total net imports is 0.05 per cent or less, such member shall contribute an amount assessed on the basis of a share of 0.05 per cent of total net imports.

4. During any period in which this Agreement is in force provisionally either under paragraph 2 or subparagraph (b) of paragraph 4 of article 61, the financial commitment of each exporting or importing member to the Buffer Stock Account shall not in total exceed that member's contribution, calculated on the basis of the number of votes corresponding to the percentage shares set out in the tables to be established by the Council under paragraph 4 of article 14, of the totals of 275,000 tonnes falling to the exporting and importing categories of members respectively. The financial obligations of members when this Agreement is in force provisionally shall be shared equally by exporting and importing categories of members. At any time when the aggregate commitment of one category exceeds that of the other, the larger of the two aggregates shall be brought equal to the smaller of the two

aggregates, each member's votes in that aggregate being reduced in proportion to the shares of votes derived from the tables to be established by the Council under paragraph 4 of article 14. Notwithstanding the provisions of this paragraph and of paragraph 1 of article 28, a member's contribution may not exceed 125 per cent of the amount of its total contribution calculated on the basis of its share in world trade as indicated in annex A or annex B to this Agreement.

5. The total costs of the normal and contingency Buffer Stock of 550,000 tonnes shall be financed by contributions by members in cash to the Buffer Stock Account. Such contributions may, when relevant, be paid by the appropriate agencies of members concerned.

6. The total costs of the 550,000-tonne international Buffer Stock shall be paid from the Buffer Stock Account. Such costs shall include all expenses involved in acquiring and operating the 550,000-tonne international Buffer Stock. In the event that the estimated cost, as given in annex C to this Agreement, cannot fully cover the total cost of acquisition and operations of the Buffer Stock, the Council shall meet and make the necessary arrangements to call up the required contributions to cover such costs according to percentage shares of votes.

## Article 28

### Payment of contributions to the Buffer Stock Account

1. There shall be an initial contribution in cash to the Buffer Stock Account equivalent to 70 million Malaysian ringgit. This amount, which represents a working capital reserve for buffer stock operations, shall be apportioned among all members according to their percentage shares of votes, taking into consideration paragraph 3 of article 27, and shall be due within 60 days after the first Council session after the entry into force of this Agreement. The initial contribution of a member due in accordance with this paragraph shall, with the consent of that member, be made wholly or in part by transfer of that member's share in the cash held in the Buffer Stock Account under the International Natural Rubber Agreement, 1987.

2. The Executive Director may at any time, and independently of the arrangements in paragraph 1 of this article, call for contributions provided that the Buffer Stock Manager has certified that the Buffer Stock Account may require such funds in the next four months.

3. When a contribution is called, it shall be due from members within 60 days of the date of notification. If requested by any member or members accounting for 200 votes in the Council, the Council shall meet in special session and may modify or disapprove the call-up based on an assessment of the need for funds to support buffer stock operations in the next four months. If the Council cannot reach a decision, contributions shall be due from members in accordance with the Executive Director's notification.

4. Contributions called up for the normal and the contingency Buffer Stock shall be valued at the lower trigger action price in effect at the time such contributions are called.

5. The call-up of contributions to the contingency Buffer Stock shall be handled as follows:

(a) At the 300,000-tonne review provided for in article 31, the Council shall make all financial and other arrangements which may be necessary for the prompt implementation of the contingency Buffer Stock including call-up of funds if necessary;

(b) If the Council by special vote under article 30, paragraph 2 decides to bring the contingency Buffer Stock into operation, then the Council shall ensure that:

(i) All members have made all necessary arrangements for financing their respective shares of the contingency Buffer Stock; and

(ii) The contingency Buffer Stock has been invoked and is fully primed for action in accordance with the terms of article 30.

## Article 29

### Price range

1. There shall be established, for the operations of the Buffer Stock:

(a) A reference price;
(b) A lower intervention price;
(c) An upper intervention price;
(d) A lower trigger action price;
(e) An upper trigger action price;
(f) A lower indicative price; and
(g) An upper indicative price.

2. On the entry into force of this Agreement, the reference price shall be the reference price applicable on 28 December 1995.

3. There shall be an upper intervention price and a lower intervention price calculated respectively at plus and minus 15 per cent of the reference price, unless the Council, by special vote, decides otherwise.

4. There shall be an upper trigger action price and a lower trigger action price calculated respectively at plus and minus 20 per cent of the reference price, unless the Council, by special vote, decides otherwise.

5. The prices calculated in accordance with paragraphs 3 and 4 of this article shall be rounded to the nearest cent.

6. On the entry into force of this Agreement, the lower and upper indicative prices shall be initially fixed at 157 and 270 Malaysian/Singapore cents per kilogramme, respectively.

## Article 30

### Operation of the Buffer Stock

1. If, in relation to the price range provided for in article 29, or as subsequently revised in accordance with the provisions of articles 31 and 39, the market indicator price provided for in article 32 is:

(a) At or above the upper trigger action price, the Buffer Stock Manager shall defend the upper trigger action price by offering natural rubber for sale until the market indicator price falls below the upper trigger action price;

(b) Above the upper intervention price, the Buffer Stock Manager may sell natural rubber in defence of the upper trigger action price;

(c) At the upper or lower intervention price, or between them, the Buffer Stock Manager shall neither buy nor sell natural rubber, except in order to carry out his responsibilities for rotation under article 35;

(d) Below the lower intervention price, the Buffer Stock Manager may buy natural rubber in defence of the lower trigger action price;

(e) At or below the lower trigger action price, the Buffer Stock Manager shall defend the lower trigger action price by offering to buy natural rubber until the market indicator price exceeds the lower trigger action price.

2. When sales or purchases for the Buffer Stock reach the 400,000-tonne level, the Council shall, by special vote, decide whether to bring the contingency Buffer Stock into operation at:

(a) The lower or upper trigger action price; or

(b) Any price between the lower trigger action price and the lower indicative price, or the upper trigger action price and the upper indicative price.

3. Unless the Council, by special vote, decides otherwise under paragraph 2 of this article, the Buffer Stock Manager shall use the contingency Buffer Stock to defend the lower indicative price by bringing the contingency Buffer Stock into operation when the market indicator price is at a level 2 Malaysian/Singapore cents per kilogramme above the lower indicative price, and to defend the upper indicative price by bringing the contingency Buffer Stock into operation when the market indicator price is at a level 2 Malaysian/ Singapore cents per kilogramme below the upper indicative price.

4. The total facilities of the Buffer Stock, including the normal Buffer Stock and the contingency Buffer Stock, shall be fully utilized to ensure that the market indicator price does not fall below the lower indicative price or rise above the upper indicative price.

5. Sales and purchases by the Buffer Stock Manager shall be effected through established commercial markets at prevailing prices, and all his transactions shall be in physical rubber available for shipment not later than one month after the end of the first quoted month in the market concerned, or for delivery in a consuming market during the delivery month or months normally corresponding to such shipment months in that market. For the purpose of the efficient operation of the Buffer Stock, the Council may decide by consensus to allow the Buffer Stock Manager to purchase future contracts up to a maximum of two months forward on the strict and absolute condition that tenders are taken up on maturity.

6. To facilitate the operation of the Buffer Stock, the Council shall establish branch offices and such facilities of the Buffer Stock Manager's office, where necessary, in established rubber markets and approved warehouse locations.

7. The Buffer Stock Manager shall prepare a monthly report on buffer stock transactions and the Buffer Stock Account's financial position. Thirty days after the end of each month, the report for that month shall be made available to members.

8. The information on buffer stock transactions shall include quantities, prices, types, grades and markets of all buffer stock operations, including rotations effected. The information on the Buffer Stock Account's financial position shall also include interest rates on and terms and conditions of deposits, the currencies operated in and other relevant information on the items referred to in paragraph 2 of article 21.

## Article 31

## Review and revision of the price range

### A. Reference price

1. Any review or revision of the reference price, including those following net changes in the Buffer Stock under paragraph 2 of this article, shall be based on market trends. Immediately before the first meeting of the Council after the Agreement enters into force and every 12 months thereafter, the Buffer Stock Manager shall calculate the average daily market indicator price for the previous six months and compare this value with the two intervention prices. The date of this calculation shall be fixed at least three months in advance except for the first review and immediately precede a Council session.

(a) If the average of the six-month daily market indicator prices is at the upper intervention price, at the lower intervention price, or between these two prices, no revision of the reference price shall take place.

(b) If the average of the six-month daily market indicator prices is below the lower intervention price, the reference price shall be automatically revised downward by 5 per cent of its level and become effective the following day. Normally the Council would meet on that day and take note of the revision. The Council may review the reference price and may, by special vote, decide on a higher percentage adjustment downwards of the reference price.

(c) If the average of the six-month daily market indicator prices is above the upper intervention price, the reference price shall be automatically revised upwards by 5 per cent of its level and become effective the following day. Normally the Council would meet on that day and take note of the revision. The Council may review the reference price and may, by special vote, decide on a higher percentage adjustment upwards of the reference price.

(d) However, at the first regular session of the Council after the entry into force of the Agreement any automatic revision under article 31, paragraph 1, subparagraphs (b) or (c) shall be 4 per cent.

(e) For the purposes of the comparison, the reference price and the six-month daily market indicator price will be calculated to two decimal places.

2. Following a net change to the Buffer Stock of 100,000 tonnes since the last regular session of the Council, the Executive Director shall convene a special session of the Council to assess the situation. The Council may, by special vote, decide to take appropriate measures which may include:

(a) Suspension of buffer stock operations;

(b) Change in the rate of buffer stock purchases or sales; and

(c) Revision of the reference price.

3. If net buffer stock purchases or sales amounting to 300,000 tonnes have taken place since (a) the last revision under paragraph 3 of article 31 of the International Natural Rubber Agreement, 1987, (b) the last revision under this paragraph, or (c) the last revision under paragraph 2 of this article, whichever is most recent, the reference price shall be lowered or raised, respectively, by 3 per cent of its current level unless the Council, by special vote, decides to lower or raise it, respectively, by a higher percentage amount.

4. Notwithstanding the provisions of article 29, paragraph 4, revision of the reference price shall not result in the trigger action price breaching the indicative price.

5. Notwithstanding the provisions of article 31, paragraph 1 and article 31, paragraph 3, revision of the reference price shall not result in the intervention price breaching the level at which the contingency Buffer Stock will be brought into operation under article 30, paragraph 3.

B. Indicative prices

6. The Council may, by special vote, revise the lower and upper indicative prices at reviews provided for in this section of this article.

7. The Council shall ensure that any revision of indicative prices is consistent with evolving market trends and conditions. In this connection, the Council shall take into consideration the trend of natural rubber prices, consumption, supply, production costs and stocks, as well as the quantity of natural rubber held in the Buffer Stock and the financial position of the Buffer Stock Account.

8. The lower and upper indicative prices shall be reviewed:

(a) 24 months after the last review pursuant to paragraph 7 (a) of article 31 of the International Natural Rubber Agreement, 1987, or in the event that this Agreement enters into force after 1 May 1996, at the first session of the Council under this Agreement, and every 24 months thereafter;

(b) In exceptional circumstances, at the request of a member or members accounting for 200 or more votes in the Council; and

(c) When the reference price has been revised (i) downwards since the last revision of the lower indicative price or the entry into force of the International Natural Rubber Agreement, 1987, or (ii) upwards since the last revision of the upper indicative price or the entry into force of the International Natural Rubber Agreement, 1987, by at least 3 per cent under paragraph 3 of this article and at least 5 per cent under paragraph 1 of this article, or by at least this amount under paragraphs 1, 2 and/or 3 of this article, provided that the average of the daily market indicator price for the 60 days subsequent to the last revision of the reference price is either below the lower intervention price or above the upper intervention price, respectively.

9. Notwithstanding paragraphs 6, 7 and 8 of this article, there shall be no upward revision in the lower or upper indicative price if the average of the daily market indicator prices over the six-month period prior to a review of the price range under this article is below the reference price. Similarly, there shall be no downward revision in the lower or upper indicative price if the average of the daily market indicator prices over the six-month period prior to a review of the price range under this article is above the reference price.

## Article 32

## Market indicator price

1. There shall be established a daily market indicator price which shall be a composite, weighted average - reflecting the market in natural rubber - of daily official prices as defined by the Council on the Kuala Lumpur, London, New York and Singapore markets, and such other established commercial markets as the Council may decide. Initially, the daily market indicator price shall comprise RSS 1, RSS 3 and TSR 20 and their weighting shall be in the ratio of 2:3:5. All quotations shall be converted into f.o.b. Malaysian/Singapore ports in Malaysian/Singapore currency.

2. The type/grade composition weightings, method of computing the daily market indicator price and the number of markets shall be reviewed and may, by special vote, be revised by the Council to ensure that it reflects the market in natural rubber. The Council may, by special vote, decide to include additional established commercial markets in the calculation of the daily market indicator price if such markets are deemed to influence the international price of natural rubber.

3. The market indicator price shall be deemed above, at or below price levels specified in this Agreement if the average of the daily market indicator prices for the last five market days is above, at or below such price levels.

## Article 33

### Composition of buffer stocks

1. At its first session after the entry into force of this Agreement, the Council shall name the internationally recognized standard types and grades of ribbed smoked sheets and technically specified rubbers for inclusion in the Buffer Stock, provided that the following criteria are met:

(a) The lowest types and grades of natural rubber authorized for inclusion in the Buffer Stock shall be RSS 3 and TSR 20; and

(b) All types and grades allowed under subparagraph (a) of this paragraph which account for at least 3 per cent of the previous calendar year's international trade in natural rubber shall be named.

2. The Council may, by special vote, change these criteria and/or the selected types/grades if that is necessary to ensure that the composition of the Buffer Stock reflects the evolving market situation, attainment of the stabilization objectives of this Agreement and the need to maintain a high commercial standard of quality of buffer stocks.

3. The Buffer Stock Manager shall make every effort to ensure that the composition of the Buffer Stock closely reflects the export/import patterns for natural rubber, while promoting the stabilization objectives of this Agreement.

4. The Council may, by special vote, direct the Buffer Stock Manager to change the composition of the Buffer Stock if the objective of price stabilization so dictates.

## Article 34

### Location of buffer stocks

1. The location of buffer stocks shall ensure economic and efficient commercial operations. In accordance with this principle, the buffer stocks shall be located in the territory of both exporting and importing members, unless the Council, by special vote, decides otherwise. The distribution of the buffer stock rubber shall be consistent with attaining the stabilization objectives of the Agreement while minimizing costs.

2. In order to maintain high commercial quality standards, buffer stocks shall be stored only in warehouses approved on the basis of criteria established by the Council of the International Natural Rubber Agreement, 1987, or revised by the Council under this Agreement.

3. After the entry into force of this Agreement, the Council shall establish and approve the list of warehouses and the necessary arrangements for their use. The Council may, if necessary, review the list of warehouses approved by the Council of the International Natural Rubber Agreement, 1987, and the criteria established by the said Council and maintain or revise them accordingly.

4. The Council shall also periodically review the location of the buffer stocks and may, by special vote, direct the Buffer Stock Manager to change the location of the buffer stocks to ensure economic and efficient commercial operations.

## Article 35

### Maintaining the quality of the buffer stocks

The Buffer Stock Manager shall ensure that all buffer stocks are purchased and maintained at a high commercial standard of quality. To help him achieve this, he may rotate natural rubber stored in the Buffer Stock as necessary to ensure such standards, taking into appropriate consideration the cost of such rotation and its impact on the stability of the market. The costs of rotation shall be brought into the Buffer Stock Account.

## Article 36

### Restriction or suspension of buffer stock operations

1. Notwithstanding the provisions of article 30, the Council, if in session, may, by special vote, restrict or suspend the operations of the Buffer Stock, if in its opinion the discharge of the obligations laid upon the Buffer Stock Manager by that article will not achieve the objectives of this Agreement.

2. If the Council is not in session, the Executive Director may, after consultation with the Chairman, restrict or suspend the operations of the Buffer Stock, if in his opinion the discharge of the obligations laid upon the Buffer Stock Manager by article 30 will not achieve the objectives of this Agreement.

3. Immediately after a decision to restrict or suspend the operations of the Buffer Stock under paragraph 2 of this article, the Executive Director shall convene a session of the Council to review such decision. Notwithstanding the provisions of paragraph 4 of article 13, the Council shall meet within 10 days after the date of restriction or suspension and shall, by special vote, confirm or cancel such restriction or suspension. If the Council cannot come to a decision at that session, buffer stock operations shall be resumed without any restriction imposed under this article.

4. As long as any restriction or suspension of buffer stock operations decided in accordance with this article remains in force, the Council shall review this decision at intervals of not longer than three months. If at a session to make such a review the Council does not confirm, by special vote, the continuation of the restriction or suspension, or does not come to a decision, buffer stock operations shall be resumed without restriction.

## Article 37

### Penalties relating to contributions to the Buffer Stock Account

1. If a member does not fulfil its obligation to contribute to the Buffer Stock Account by the last day such contribution becomes due, it shall be considered to be in arrears. A member in arrears for 60 days or more shall not count as a member for the purpose of voting on matters covered in paragraph 2 of this article.

2. The voting and other rights in the Council of a member in arrears for 60 days or more under paragraph 1 of this article shall be suspended, unless the Council, by special vote, decides otherwise.

3. A member in arrears shall bear interest charges at the prime rate in the host country beginning on the last day such payments become due. Coverage of arrears by the remaining importing and exporting members shall be on a voluntary basis.

4. A member shall not be considered as in arrears if any shortfall in its contribution is only a result of fluctuations in currency exchange rates in the 60 days following the call for payments. In this case, no interest will be charged on the shortfall. However, any such shortfall should be covered by the member within the 60 days following the payment.

5. When the default has been remedied to the satisfaction of the Council, the voting and other rights of the member in arrears for 60 days or more shall be restored. If the arrears have been made good by other members, these members shall be fully reimbursed.

## Article 38

### Adjustment of contributions to the Buffer Stock Account

1. When the votes are redistributed at the first regular session in each financial year or whenever the membership of the Organization changes, the Council shall make the necessary adjustment of each member's contribution to the Buffer Stock Account in accordance with the provisions of this article. For this purpose, the Executive Director shall determine:

(a) The net cash contribution of each member, by subtracting refunds of contributions to that member in accordance with paragraph 2 of this article from the sum of all contributions paid by that member since the entry into force of this Agreement;

(b) The total net call-ups, by summing the consecutive call-ups and subtracting the total of refunds made in accordance with paragraph 2 of this article;

(c) The revised net contribution for each member, by apportioning the total net call-ups among members on the basis of each member's revised voting share in the Council pursuant to article 14, subject to paragraph 3 of article 27, provided that the voting share of each member shall, for the purpose of this article, be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

Where a member's net cash contribution exceeds its revised net contribution, a refund of the difference minus any outstanding penalty interest on arrears shall be made to that member from the Buffer Stock Account. Where a member's revised net contribution exceeds its net cash contribution, a payment of the difference plus any outstanding penalty interest on arrears shall be made by that member to the Buffer Stock Account.

2. If the Council, having regard to paragraphs 2 and 3 of article 28, decides that there are net cash contributions in excess of funds required to support buffer stock operations within the next four months, the Council shall refund such excess net cash contributions less initial contributions unless it decides, by special vote, either to make no such refund or to refund a smaller amount. Members' shares of the amount to be refunded shall be in proportion to their net cash contributions, minus any outstanding penalty interest on arrears. The contribution liability of members in arrears shall be reduced in the same proportion as the refund bears to the total net cash contributions.

3. At the request of a member, the refund to which it is entitled may be retained in the Buffer Stock Account. If a member requests that its refund be retained in the Buffer Stock Account, this amount shall be credited against any additional contribution requested in accordance with article 28. The credit retained in the Buffer Stock Account at the request of a member shall bear interest at the average rate of interest earned on funds in the Buffer Stock Account, beginning the last day when the amount should normally be reimbursed to that member until the day preceding the actual reimbursement.

4. The Executive Director shall immediately notify members of any required payments or refunds resulting from adjustments made in accordance with paragraphs 1 and 2 of this article. Such payments by members or refunds to members shall be made within 60 days from the date the Executive Director issues such notification.

5. In the event that the amount of cash in the Buffer Stock Account exceeds the value of total net cash contributions of members, such surplus funds shall be distributed upon termination of this Agreement.

## Article 39

## The Buffer Stock and changes in exchange rates

1. In the event that the exchange rate between the Malaysian ringgit/Singapore dollar and the currencies of the major natural rubber exporting and importing members changes to the extent that the operations of the Buffer Stock are significantly affected, the Executive Director shall, in accordance with article 36, or members may, in accordance with article 13, call for a special session of the Council. The Council shall meet within 10 days to confirm or cancel measures already taken by the Executive Director pursuant to article 36, and may, by special vote, decide to take appropriate measures, including the possibility of revising the price range, pursuant to the principles of the first sentences of paragraphs 1 and 6 of article 31.

2. The Council shall, by special vote, establish a procedure to determine a significant change in the parities of these currencies for the sole purpose of ensuring the timely convening of the Council.

3. In the event that there is a divergency between the Malaysian ringgit and the Singapore dollar to the extent that buffer stock operations are significantly affected, the Council shall meet to review the situation and may consider the adoption of a single currency.

## Article 40

### Liquidation procedures for the Buffer Stock Account

1. On termination of this Agreement, the Buffer Stock Manager shall estimate the total expense of liquidating or transferring to a new international natural rubber agreement the assets of the Buffer Stock Account in accordance with the provisions of this article, and shall reserve that amount in a separate account. If these balances are inadequate, the Buffer Stock Manager shall sell a sufficient quantity of natural rubber in the Buffer Stock to provide the additional sum required.

2. Each member's share in the Buffer Stock Account shall be calculated as follows:

(a) The value of the Buffer Stock shall be the value of the total quantity of natural rubber of each type/grade therein, calculated at the lowest of the current prices of the respective types/grades on markets referred to in article 32 during the 30 market days preceding the date of termination of this Agreement;

(b) The value of the Buffer Stock Account shall be the value of the Buffer Stock plus the cash assets of the Buffer Stock Account on the date of the termination of this Agreement less any amount reserved under paragraph 1 of this article;

(c) Each member's net cash contribution shall be the sum of its contributions paid throughout the duration of this Agreement less all refunds made under article 38; penalty interest on arrears paid in accordance with paragraph 3 of article 37 shall not constitute a contribution to the Buffer Stock Account;

(d) If the value of the Buffer Stock Account is either greater or less than total net cash contributions, the surplus shall be allocated among members in proportion to each member's time-weighted net contribution share under this Agreement. Any deficit shall be allocated among members in proportion to each member's average number of votes held during its period of membership. In assessing the share of the deficits to be borne by each member, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom;

(e) Each member's share in the Buffer Stock Account shall comprise its net cash contribution, reduced or increased by its shares in deficits or surpluses in the Buffer Stock Account, and reduced by its liability, if any, for outstanding interest on arrears.

3. If this Agreement is to be immediately replaced with a new international natural rubber agreement, the Council shall, by special vote, adopt procedures to ensure efficient transfer to the new agreement, as required by that agreement, of shares in the Buffer Stock Account of members which intend to participate in the new agreement. Any member which does not wish to participate in the new agreement shall be entitled to the payment of its share:

(a) From available cash in proportion to its percentage share of the total net cash contributions to the Buffer Stock Account, within three months; and

(b) From the net proceeds from the disposal of the buffer stocks, by way of orderly sales or by way of transfer to the new international natural rubber agreement at current market prices, which must be concluded within 12 months; unless the Council decides, by special vote, to increase payments under subparagraph (a) of this paragraph.

4. If this Agreement terminates without being replaced by a new international natural rubber agreement which provides for a buffer stock, the Council shall, by special vote, adopt procedures to govern orderly disposal of the Buffer Stock within the maximum period specified in paragraph 6 of article 67, subject to the following constraints:

(a) No further purchases of natural rubber shall be made;

(b) The Organization shall incur no new expenses except those necessary to dispose of the Buffer Stock.

5. Subject to an election by any member to take natural rubber in accordance with paragraph 6 of this article, any cash which remains in the Buffer Stock Account shall be forthwith distributed to members in proportion to their shares as determined in paragraph 2 of this article.

6. In lieu of all or part of a cash payment, each member may elect to take its share in the assets of the Buffer Stock Account in natural rubber, subject to procedures adopted by the Council.

7. The Council shall adopt appropriate procedures for adjustment and payment of members' shares in the Buffer Stock Account. This adjustment shall account for:

(a) Any discrepancy between the price of natural rubber specified in subparagraph (a) of paragraph 2 of this article and the prices at which part or all of the Buffer Stock is sold pursuant to procedures for disposal of the Buffer Stock; and

(b) The difference between estimated and actual liquidation expenses.

8. The Council shall, within 30 days following final transactions of the Buffer Stock Account, meet to effect final settlement of accounts among members within 30 days thereafter.

## CHAPTER IX. RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES

### Article 41

### Relationship with the Common Fund for Commodities

1. The Organization shall take full advantage of the facilities of the Common Fund for Commodities.

2. In respect of the implementation of any project funded under the Second Account of the Common Fund for Commodities, the Organization, as a designated International Commodity Body, shall not incur any financial obligation including for guarantees given by individual members or other entities. Neither the Organization, nor any member by reason of its membership in the Organization, shall be responsible for any liability arising from borrowing or lending by any other member or entity in connection with such projects.

## CHAPTER X. SUPPLY AND MARKET ACCESS AND OTHER MEASURES

### Article 42

### Supply and market access

1. Exporting members to the fullest extent possible undertake to pursue policies and programmes which maintain continuous availability to consumers of natural rubber supplies.

2. Importing members to the fullest extent possible undertake to pursue policies which will maintain access to their markets for natural rubber.

### Article 43

### Other measures

1. With a view to achieving the objectives of this Agreement, the Council shall identify and propose appropriate measures and techniques directed towards promoting:

(a) The development of the natural rubber economy by producing members, through expanded and improved production, productivity and marketing, thereby increasing the export earnings of producing members while at the same time improving the reliability of supply. For this purpose, the Committee on Other Measures shall undertake economic and technical analyses in order to identify:

(i) Natural rubber research and development programmes and projects of benefit to exporting and importing members, including scientific research in specific areas;

(ii) Programmes and projects to improve the productivity of the natural rubber industry;

(iii) Ways and means to upgrade natural rubber supplies and achieve uniformity in quality specification and presentation of natural rubber; and

(iv) Methods of improving the processing, marketing and distribution of raw natural rubber;

(b) The development of end-uses of natural rubber. For this purpose, the Committee on Other Measures shall undertake appropriate economic and technical analyses in order to identify programmes and projects leading to increased and new uses of natural rubber.

2. The Council shall consider the financial implications of such measures and techniques and seek to promote and facilitate the provision of adequate financial resources, as appropriate, from such sources as international financial institutions and the Second Account of the Common Fund for Commodities.

3. The Council may accept any voluntary contribution in support of approved projects to implement this article. The management of financial contributions shall be subject to rules to be established by special vote of the Council.

4. The Council may make recommendations, as appropriate, to members, international institutions and other organizations to promote the implementation of specific measures under this article.

5. The Committee on Other Measures shall periodically review the progress of those measures which the Council decides to promote and recommend, and shall report thereon to the Council.

## CHAPTER XI. CONSULTATION ON DOMESTIC POLICIES

### Article 44

### Consultation

The Council shall consult, at the request of any member, on government natural rubber policies directly affecting supply or demand. The Council may submit its recommendations to members for their consideration.

## CHAPTER XII. STATISTICS, STUDIES AND INFORMATION

### Article 45

### Statistics and information

1. The Council shall collect, collate and as necessary publish such statistical information on natural rubber and related areas as is necessary for the satisfactory operation of this Agreement.

2. Members shall promptly and to the fullest extent possible furnish to the Council available data by specific types and grades concerning production, consumption and international trade in natural rubber.

3. The Council may also request members to furnish other available information, including information on related areas which may be required for the satisfactory operation of this Agreement.

4 Members shall furnish all the above-mentioned statistics and information within a reasonable time to the fullest extent possible consistent with their national legislation and by the ways most appropriate for them.

5. The Council shall establish close relationships with appropriate international organizations, including the International Rubber Study Group, and with commodity exchanges in order to help ensure the availability of recent and reliable data on production, consumption, stocks, international trade and prices of natural rubber, and other factors that influence demand for and supply of natural rubber.

6. The Council shall endeavour to ensure that no information published shall prejudice the confidentiality of the operations of persons or companies producing, processing or marketing natural rubber or related products.

### Article 46

### Annual assessment, estimates and studies

1. The Council shall prepare an annual assessment on the world natural rubber situation and related areas in the light of the information supplied by members and from all relevant intergovernmental and international organizations.

2. At least once in every half year, the Council shall also estimate production, consumption, exports and imports of natural rubber by specific types and grades, if possible, for the following six months. It shall inform the members of these estimates.

3. The Council shall undertake, or make appropriate arrangements to undertake, studies of trends in natural rubber production, consumption, trade, marketing and prices, as well as of the short-term and long-term problems of the world natural rubber economy.

### Article 47

### Annual review

The Council shall each year review the operation of this Agreement including conformity to its spirit and promotion of its objectives. It may then make recommendations to members regarding ways and means of improving the functioning of this Agreement.

## CHAPTER XIII. MISCELLANEOUS

### Article 48

### General obligations and liabilities of members

1. Members shall for the duration of this Agreement use their best endeavours and cooperate to promote the attainment of the objectives of this Agreement and shall not take any action in contradiction to those objectives.

2. Members shall in particular seek to improve the conditions of the natural rubber economy and to encourage the production and use of natural rubber in order to promote the growth and the modernization of the natural rubber economy for the mutual benefit of producers and consumers.

3. Members shall accept as binding all decisions of the Council under this Agreement and will not implement measures which would have the effect of limiting or running counter to those decisions.

4. The liability of members arising from the operation of this Agreement, whether to the Organization or to third parties, shall be limited to the extent of their obligations regarding contributions to the administrative budget and to financing of the Buffer Stock under and in accordance with chapters VII and VIII of this Agreement and any obligations that may be assumed by the Council under article 41.

### Article 49

### Obstacles to trade

1. The Council shall, in accordance with the annual assessment of the world natural rubber situation referred to in article 46, identify any obstacles to the expansion of trade in natural rubber in its raw, semi-processed or modified forms.

2. The Council may, in order to further the purposes of this article, make recommendations to members to seek in appropriate international fora mutually acceptable practical measures designed to remove progressively and, where possible, to eliminate such obstacles. The Council shall periodically examine the results of such recommendations.

### Article 50

### Transportation and market structure of natural rubber

The Council should encourage and facilitate the promotion of reasonable and equitable freight rates and improvements in the transport system, so as to provide regular supplies to markets and to effect savings in the cost of the products marketed.

## Article 51

### Differential and remedial measures

Developing importing members, and least developed countries which are members, whose interests are adversely affected by measures taken under this Agreement may apply to the Council for appropriate differential and remedial measures. The Council shall consider taking such appropriate measures in accordance with paragraphs 3 and 4 of section III of resolution 93 (IV) of the United Nations Conference on Trade and Development.

## Article 52

### Relief from obligations

1. Where it is necessary on account of exceptional circumstances or emergency or *force majeure* not expressly provided for in this Agreement, the Council may, by special vote, relieve a member of an obligation under this Agreement if it is satisfied by an explanation from that member regarding the reasons why the obligation cannot be met.

2. The Council, in granting relief to a member under paragraph 1 of this article, shall state explicitly the terms and conditions on which, and the period for which, the member is relieved of such obligation, and the reasons for which the relief is granted.

## Article 53

### Fair labour standards

Members declare that they will endeavour to maintain labour standards designed to improve the levels of living of workers in their respective natural rubber sectors.

## Article 54

### Environmental aspects

Members shall endeavour to pay due attention to environmental aspects as agreed at the eighth session of the United Nations Conference on Trade and Development and the United Nations Conference on Environment and Development, held in 1992.

## CHAPTER XIV. COMPLAINTS AND DISPUTES

### Article 55

### Complaints

1. Any complaint that a member has failed to fulfil its obligations under this Agreement shall, at the request of the member making the complaint, be referred to the Council, which, subject to prior consultation with the members concerned, shall take a decision on the matter.

2. Any decision by the Council that a member is in breach of its obligations under this Agreement shall specify the nature of the breach.

3. Whenever the Council, whether as the result of a complaint or otherwise, finds that a member has committed a breach of this Agreement, it may, by special vote, and without prejudice to such other measures as are specifically provided for in other articles of this Agreement:

(a) Suspend that member's voting rights in the Council and, if it deems necessary, suspend any other rights of such member, including those of holding office in the Council or in any committee established under article 18 and of being eligible for membership of such committees, until it has fulfilled its obligations; or

(b) Take action under article 65, if such breach significantly impairs the operation of this Agreement.

### Article 56

### Disputes

1. Any dispute concerning the interpretation or application of this Agreement which is not settled among the members involved shall, at the request of any member party to the dispute, be referred to the Council for decision.

2. In any case where a dispute has been referred to the Council under paragraph 1 of this article, a majority of members holding at least one third of the total votes may require the Council, after discussion, to seek the opinion of an advisory panel constituted under paragraph 3 of this article on the issue in dispute before giving its decision.

3. (a) Unless the Council, by special vote, decides otherwise, the advisory panel shall consist of five persons as follows:

(i) Two persons, one having wide experience in matters of the kind in dispute and the other having legal standing and experience, nominated by the exporting members;

(ii) Two such persons nominated by the importing members; and

(iii) A chairman selected unanimously by the four persons nominated under (i) and (ii) of this subparagraph or, if they fail to agree, by the Chairman of the Council.

(b) Nationals of members and of non-members shall be eligible to serve on the advisory panel.

(c) Persons appointed to the advisory panel shall act in their personal capacities and without instructions from any government.

(d) The expenses of the advisory panel shall be paid by the Organization.

4. The opinion of the advisory panel and the reasons therefor shall be submitted to the Council which, after considering all the relevant information, shall, by special vote, decide the dispute.

## CHAPTER XV. FINAL PROVISIONS

### Article 57

### Signature

This Agreement shall be open for signature at United Nations Headquarters from 3 April 1995 to 28 December 1995 inclusive by the Governments invited to the United Nations Conference on Natural Rubber, 1994.

### Article 58

### Depositary

The Secretary-General of the United Nations is hereby designated as the depositary of this Agreement.

### Article 59

### Ratification, acceptance and approval

1. This Agreement shall be subject to ratification, acceptance or approval by the signatory Governments in accordance with their respective constitutional or institutional procedures.

2. Instruments of ratification, acceptance or approval shall be deposited with the depositary not later than 1 January 1997. The Council may, however, grant extensions of time to signatory Governments which have been unable to deposit their instruments by that date.

3. Each Government depositing an instrument of ratification, acceptance or approval shall, at the time of such deposit, declare itself to be an exporting member or an importing member.

### Article 60

### Notification of provisional application

1. A signatory Government which intends to ratify, accept or approve this Agreement, or a Government for which the Council has established conditions for accession but which has not yet been able to deposit its instrument, may at any time notify the depositary that it will fully apply this Agreement provisionally, either when it enters into force in accordance with article 61 or, if it is already in force, at a specified date.

2. Notwithstanding the provisions of paragraph 1 of this article, a Government may provide in its notification of provisional application that it will apply this Agreement only within the limitations of its constitutional and/or legislative procedures and its domestic laws and regulations. However, such Government shall meet all its financial obligations to this Agreement. The provisional membership of a Government which notifies in this manner shall not exceed 12 months from the provisional entry into force of this Agreement, unless the Council decides otherwise pursuant to paragraph 2 of article 59.

## Article 61

## Entry into force

1. This Agreement shall enter into force definitively on 29 December 1995 or on any date thereafter, if by that date Governments accounting for at least 80 per cent of net exports as set out in annex A to this Agreement, and Governments accounting for at least 80 per cent of net imports as set out in annex B to this Agreement, have deposited their instruments of ratification, acceptance, approval or accession, or have assumed full financial commitment to this Agreement.

2. This Agreement shall enter into force provisionally on 29 December 1995, or on any date before 1 January 1997, if Governments accounting for at least 75 per cent of net exports as set out in annex A to this Agreement, and Governments accounting for at least 75 per cent of net imports as set out in annex B to this Agreement, have deposited their instruments of ratification, acceptance or approval, or have notified the depositary under paragraph 1 of article 60 that they will apply this Agreement provisionally and assume full financial commitment to this Agreement. The Agreement shall remain in force provisionally up to a maximum of 12 months, unless it enters into force definitively under paragraph 1 of this article or the Council decides otherwise in accordance with paragraph 4 of this article.

3. If this Agreement does not come into force provisionally under paragraph 2 of this article by 1 January 1997, the Secretary General of the United Nations shall invite, at the earliest time he considers practicable after that date, the Governments which have deposited instruments of ratification, acceptance or approval or have notified him that they will apply this Agreement provisionally, to meet with a view to recommending whether or not such Governments should take the necessary steps to put this Agreement provisionally or definitively into force among themselves in whole or in part. If no conclusion is reached at this meeting, the Secretary-General of the United Nations may convene such further meetings as he considers appropriate.

4. If the requirements for definitive entry into force of this Agreement under paragraph 1 of this article have not been met within 12 calendar months of the provisional entry into force of this Agreement under paragraph 2 of this article, the Council shall, not later than one month before the end of the 12-month period mentioned above, review the future of this Agreement and, subject to paragraph 1 of this article, by special vote, decide:

(a) To put this Agreement definitively into force among the current members in whole or in part;

(b) To keep this Agreement provisionally in force among the current members in whole or in part for an additional year; or

(c) To renegotiate this Agreement.

If no decision is reached by the Council, this Agreement shall terminate at the expiry of the 12-month period. The Council shall inform the depositary of any decision taken under this paragraph.

5. For any Government that deposits its instrument of ratification, acceptance, approval or accession after the entry into force of this Agreement, it shall enter into force for that Government on the date of such deposit.

6. The Executive Director of the Organization shall convene the first session of the Council as soon as possible after the entry into force of this Agreement.

## Article 62

### Accession

1. This Agreement shall be open for accession by the Government of any State. Accession shall be subject to conditions to be established by the Council, which shall include, *inter alia*, a time limit for the deposit of instruments of accession, the number of votes to be held and financial obligations. The Council may, however, grant extensions of time to Governments which are unable to deposit their instruments of accession within the time limit set in the conditions of accession.

2. Accession shall be effected by the deposit of an instrument of accession with the depositary. Instruments of accession shall state that the Government accepts all the conditions established by the Council.

## Article 63

### Amendments

1. The Council may, by special vote, recommend amendments of this Agreement to the members.

2. The Council shall fix a date by which members shall notify the depositary of their acceptance of the amendment.

3. An amendment shall become effective 90 days after the depositary has received notifications of acceptance from members constituting at least two thirds of the exporting members and accounting for at least 85 per cent of the votes of the exporting members, and from members constituting at least two thirds of the importing members and accounting for at least 85 per cent of the votes of the importing members.

4. After the depositary informs the Council that the requirements for the amendment to become effective have been met, and notwithstanding the provisions of paragraph 2 of this article relating to the date fixed by the Council, a member may still notify the depositary of its acceptance of the amendment, provided that such notification is made before the amendment becomes effective.

5. Any member which has not notified its acceptance of an amendment by the date on which such amendment becomes effective shall cease to be a contracting party as from that date, unless such member has satisfied the Council that its acceptance could not be obtained in time owing to difficulties in completing its constitutional or institutional procedures, and the Council decides to extend for that member the period for acceptance of the amendment. Such member shall not be bound by the amendment before it has notified its acceptance thereof.

6. If the requirements for the amendment to become effective have not been met by the date fixed by the Council in accordance with paragraph 2 of this article, the amendment shall be considered withdrawn.

## Article 64

### Withdrawal

1. A member may withdraw from this Agreement at any time after the entry into force of this Agreement by giving notice of withdrawal to the depositary. That member shall simultaneously inform the Council of the action it has taken.

2. One year after its notice is received by the depositary, that member shall cease to be a contracting party to this Agreement.

## Article 65

### Exclusion

If the Council decides that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may, by special vote, exclude that member from this Agreement. The Council shall immediately so notify the depositary. One year after the date of the Council's decision, that member shall cease to be a contracting party to this Agreement.

## Article 66

### Settlement of accounts with withdrawing or excluded members or members unable to accept an amendment

1. In accordance with this article, the Council shall determine any settlement of accounts with a member which ceases to be a contracting party to this Agreement owing to:

(a) Non-acceptance of an amendment to this Agreement pursuant to article 63;

(b) Withdrawal from this Agreement pursuant to article 64; or

(c) Exclusion from this Agreement pursuant to article 65.

2. The Council shall retain any contribution paid to the Administrative Account by a member which ceases to be a contracting party to this Agreement.

3. The Council shall refund the share in the Buffer Stock Account in accordance with article 40 to a member which ceases to be a contracting party owing to non-acceptance of an amendment to this Agreement, withdrawal or exclusion, less its share in any surpluses.

(a) Such refund to a member which ceases to be a contracting party owing to non-acceptance of an amendment to this Agreement shall be made one year after the amendment concerned enters into force.

(b) Such refund to a member which withdraws shall be made within 60 days after that member ceases to be a contracting party to this Agreement, unless as a result of this withdrawal the Council decides to terminate this Agreement under paragraph 5 of article 67 prior to such a refund, in which case the provisions of article 40 and paragraph 6 of article 67 shall apply.

(c) Such refund to a member which is excluded shall be made within 60 days after a member ceases to be a contracting party to this Agreement.

4. In the event that the Buffer Stock Account is unable to settle the payment in cash due under subparagraph (a), (b) or (c) of paragraph 3 of this article without either undermining the viability of the Buffer Stock Account or leading to a call-up of additional contributions from members to cover such refunds, payment shall be deferred until the requisite amount of natural rubber in the Buffer Stock can be sold at or above the upper intervention price. In the event that, before the end of the one-year period specified in article 64, the Council informs a withdrawing member that payment will have to be deferred in accordance with this paragraph, the period of one year between notification of intention to withdraw and the actual withdrawal may, if the withdrawing member so wishes, be extended until such time as the Council informs that member that payment of its share can be effected within 60 days.

5. A member which has received an appropriate refund under this article shall not be entitled to any share of the proceeds of liquidation of the Organization. Nor shall such a member be liable for any deficit incurred by the Organization after such refund has been made.

## Article 67

## Duration, extension and termination

1. This Agreement shall remain in force for a period of four years after its entry into force, unless extended under paragraph 3 or terminated under paragraph 4 or paragraph 5 of this article.

2. Before the expiry of the four-year period referred to in paragraph 1 of this article, the Council may, by special vote, decide to renegotiate this Agreement.

3. The Council may, by special vote, extend this Agreement by a period or periods not exceeding two years in all, commencing from the date of expiry of the four-year period specified in paragraph 1 of this article.

4. If a new international natural rubber agreement is negotiated and enters into force during any period of extension of this Agreement pursuant to paragraph 3 of this article, this Agreement, as extended, shall terminate upon the entry into force of the new agreement.

5. The Council may at any time, by special vote, decide to terminate this Agreement with effect from such date as it may determine.

6. Notwithstanding the termination of this Agreement, the Council shall continue in being for a period not exceeding three years to carry out the liquidation of the Organization, including the settlement of accounts, and the disposal of assets in accordance with the provisions of article 40 and subject to relevant decisions to be taken by special vote, and shall have during that period such powers and functions as may be necessary for these purposes.

7. The Council shall notify the depositary of any decision taken under this article.

## Article 68

## Reservations

No reservations may be made with respect to any of the provisions of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have affixed their signatures under this Agreement on the dates indicated.

DONE at Geneva, this seventeenth day of February, one thousand nine hundred and ninety-five, the texts of this Agreement in the Arabic, Chinese, English, French, Russian and Spanish languages being equally authentic.

**ANNEXES**

## Annex A

## Shares of individual exporting countries in total net exports of countries, as established for the purposes of article 61

| | Percentage * |
|---|---|
| Bolivia | 0.040 |
| Cameroon | 0.867 |
| Côte d'Ivoire | 1.764 |
| Indonesia | 31.108 |
| Malaysia | 27.971 |
| Nigeria | 2.946 |
| Singapore | 0.000 |
| Sri Lanka | 2.096 |
| Thailand | 33.208 |
| TOTAL | 100.000 |

* Shares are percentages of total net exports of natural rubber in the five-year period, 1989-1993.

## Annex B

## Shares of individual importing countries and groups of countries in total net imports of countries, as established for the purposes of article 61

| | Percentage * |
|---|---|
| Argentina | 0.943 |
| China | 8.843 |
| Colombia | 0.700 |
| Cuba | 0.043 |
| Democratic People's Republic of Korea | 0.195 |
| European Community: | 26.968 |
| Austria | 0.723 |
| Belgium-Luxembourg | 1.535 |
| Denmark | 0.067 |
| Finland | 0.221 |
| France | 5.559 |
| Germany | 6.437 |
| Greece | 0.276 |
| Ireland | 0.224 |
| Italy | 3.754 |
| Netherlands | 0.321 |
| Portugal | 0.239 |
| Spain | 3.397 |
| Sweden | 0.292 |
| United Kingdom | 3.923 |
| India | 0.450 |
| Japan | 21.694 |
| Lebanon | 0.003 |
| Morocco | 0.237 |
| Norway | 0.022 |
| Pakistan | 0.715 |
| Republic of Korea | 8.830 |
| Russian Federation | 1.149 |
| Slovakia | 0.334 |
| Switzerland | 0.059 |
| United States of America | 28.815 |
| TOTAL | 100.000 |

* Shares are percentages of total net imports of natural rubber in the three-year period, 1991-1993.

## Annex C

## Cost of the Buffer Stock as estimated by the President of the United Nations Conference on Natural Rubber, 1994

Based on the cost of acquiring and operating the Buffer Stock of roughly 360,000 tonnes from 1982 until March 1987 and 221,000 tonnes from 1990 through December 1994, the cost of acquiring and operating a Buffer Stock of 550,000 tonnes might be calculated by multiplying this figure by the lower trigger action price and adding a further 30 per cent thereof.

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